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Attorneys for Plaintiff
Helen M. Newby

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

HELEN M. NEWBY,)	Case No.: 2:24-cv-00094-EJY
)	
Plaintiff,)	STIPULATION AND PROPOSED
)	ORDER FOR THE AWARD AND
vs.)	PAYMENT OF ATTORNEY FEES
)	AND EXPENSES PURSUANT TO
MARTIN O'MALLEY,)	THE EQUAL ACCESS TO JUSTICE
Commissioner of Social Security,)	ACT, 28 U.S.C. § 2412(d) AND
)	COSTS PURSUANT TO 28 U.S.C. §
Defendant.)	1920
)	
)	

TO THE HONORABLE ELAYNA J. YOUCHAH, MAGISTRATE JUDGE
OF THE DISTRICT COURT:

IT IS HEREBY STIPULATED, by and between the parties through their
undersigned counsel, subject to the approval of the Court, that Helen M. Newby
("Newby") be awarded attorney fees in the amount of THREE THOUSAND ONE

1 HUNDRED dollars (\$3,100.00) under the Equal Access to Justice Act (EAJA), 28
2 U.S.C. § 2412(d), and no costs under 28 U.S.C. § 1920. This amount represents
3 compensation for all legal services rendered on behalf of Plaintiff by counsel in
4 connection with this civil action, in accordance with 28 U.S.C. §§ 1920; 2412(d).

5 After the Court issues an order for EAJA fees to Newby, the government
6 will consider the matter of Newby's assignment of EAJA fees to Marc Kalagian.
7 The retainer agreement containing the assignment is attached as exhibit 2.
8 Pursuant to *Astrue v. Ratliff*, 130 S.Ct. 2521, 2529 (2010), the ability to honor the
9 assignment will depend on whether the fees are subject to any offset allowed under
10 the United States Department of the Treasury's Offset Program. After the order for
11 EAJA fees is entered, the government will determine whether they are subject to
12 any offset.

13 Fees shall be made payable to Newby, but if the Department of the Treasury
14 determines that Newby does not owe a federal debt, then the government shall
15 cause the payment of fees, expenses and costs to be made directly to Law Offices
16 of Lawrence D. Rohlffing, Inc., CPC, pursuant to the assignment executed by
17 Newby.¹ Any payments made shall be delivered to Law Offices of Lawrence D.
18 Rohlffing, Inc., CPC. Counsel agrees that any payment of costs may be made either
19 by electronic fund transfer (ETF) or by check.

20 This stipulation constitutes a compromise settlement of Newby's request for
21 EAJA attorney fees, and does not constitute an admission of liability on the part of
22 Defendant under the EAJA or otherwise. Payment of the agreed amount shall
23 constitute a complete release from, and bar to, any and all claims that Newby
24

25 ¹ The parties do not stipulate whether counsel for the plaintiff has a cognizable lien
26 under federal law against the recovery of EAJA fees that survives the Treasury
Offset Program.

and/or Marc Kalagian including Law Offices of Lawrence D. Rohlfing, Inc., CPC, may have relating to EAJA attorney fees in connection with this action.

This award is without prejudice to the rights of Marc Kalagian and/or the Law Offices of Lawrence D. Rohlfing, Inc., CPC, to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA.

DATE: June 20, 2024 Respectfully submitted,

LAW OFFICES OF LAWRENCE D. ROHLFING, INC., CPC

*/s/ Marc V. Kalagian*²

BY: _____

Marc V. Kalagian
Attorney for plaintiff
HELEN M. NEWBY

DATED: June 20, 2024

JASON M. FRIERSON
United States Attorney

/s/ Julie Cummings

JULIE CUMMINGS
Special Assistant United States Attorney
Attorneys for Defendant
MARTIN O'MALLEY, Commissioner of Social Security (Per e-mail authorization)

ORDER

Approved and so ordered

DATE: June 25, 2024



THE HONORABLE ELAYNA J. YOUCHAH
UNITED STATES MAGISTRATE JUDGE

² Counsel for the plaintiff attests that all other signatories listed, and on whose behalf the filing is submitted, concur in the filing's content and have authorized the filing.